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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

OSCAR VERDUGO,

Defendant and Appellant.

F077185

(Super. Ct. Nos. F17904631,  
F17904328)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Fresno County. F. Brian Alvarez, Judge.

Gregory L. Cannon, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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\* Before Levy, Acting P.J., Franson, J. and Smith, J.

In case No. F17904328 (case 1), appellant Oscar Verdugo pled no contest to receiving a stolen vehicle with a prior conviction (Pen. Code, § 496d, subd. (a)).<sup>1</sup> In case No. F17904631 (case 2), Verdugo pled no contest to identity theft with a prior conviction (§ 530.5, subd. (c)(2)). Verdugo also admitted two prior prison term enhancements (§ 667.5, subd. (b)). Following independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436, we affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

On June 21, 2017, at approximately 11:00 a.m., G. Banuelos reported that his Honda CRV had been stolen.

On July 25, 2017, a Fresno police detective located the Honda in the driveway of the house where Verdugo lived. After other detectives responded to a call for assistance, the detectives contacted Verdugo and took him into custody. During a search of Verdugo, the detectives found the keys to the stolen Honda (case 1).

The detectives then searched Verdugo's residence. In his bedroom they found a notebook containing social security and credit card numbers, social security cards, bank statements, driver licenses, and blank checks that belonged to other people (case 2).

During a police interview, Verdugo stated that he bought the Honda a few weeks earlier for \$1,200 but he could not remember who he bought it from. However, the detective located a bill of sale that stated the Honda was a gift from Verdugo's cousin and it was valued at \$5,000. Verdugo also initially stated that he located all the items found in his room in a dumpster and that he was getting them together to throw them away. He subsequently stated that when he got out of jail he began accumulating other people's financial information because he needed to buy things for his family. He acknowledged knowing what he was doing was fraudulent (case 2).

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<sup>1</sup> All statutory references are to the Penal Code.

On December 27, 2017, in case 1 the Fresno County District Attorney filed an information charging Verdugo with receiving a stolen vehicle with a prior conviction and six prior prison term enhancements. In case 2, the district attorney filed an information charging Verdugo with three counts of identity theft with a prior conviction and six prior prison term enhancements (§ 667.5, subd. (b)).

On February 1, 2018, Verdugo entered his plea in both cases as noted above in exchange for a split sentence with a lid of four years and the dismissal of the remaining counts and enhancements.

On March 5, 2018, the court stayed the two prior prison term enhancements and sentenced Verdugo to an aggregate four-year term in both cases: an aggravated three-year term on his identity theft conviction in case 2 and a consecutive one-year term (one-third the middle term of three years) on his receiving a stolen vehicle conviction in case 1. The court split the sentence into three years 11 months in local custody and one month on mandatory supervision. In pertinent part, the court also ordered him to pay a \$296 probation report fee.

Verdugo's appellate counsel has filed a brief that summarizes the facts, with citations to the record, raises no issues, and asks this court to independently review the record. (*People v. Wende, supra*, 25 Cal.3d 436.) Verdugo has not responded to this court's invitation to submit additional briefing. However, our review of the record disclosed that the court imposed an unauthorized sentence when it stayed the two prior prison term enhancements Verdugo admitted. (*People v. Langston* (2004) 33 Cal.4th 1237, 1241 ["Once [a] prior prison term is found true within the meaning of section 667.5(b), the trial court may not stay the one-year enhancement, which is mandatory unless stricken."].)

Additionally, Verdugo's abstract of judgment does not memorialize the \$296 probation report fee the court ordered Verdugo to pay. In view of the foregoing, we will direct the trial court to issue an amended abstract of judgment that corrects this omission

and, in the interest of judicial economy, we will strike Verdugo's two prior prison term enhancements.

Further, following an independent review of the record, we find that no reasonably arguable factual or legal issues exist.

### **DISPOSITION**

The judgment is modified to strike the two prior prison term enhancements Verdugo admitted. Further, the trial court is directed to issue an amended abstract of judgment that (1) does not indicate that the court stayed the two prior prison term enhancements Verdugo admitted and (2) memorializes that the court imposed a \$296 probation report fee. The court is also directed to forward a certified copy of the abstract of judgment to the appropriate authorities. As modified, the judgment is affirmed.